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SEP 01 2009

OFFICE OF PETITIONS

In re Application of  
Jason Brett Harrop et al.  
Application No. 10/506,357  
Filed: April 15, 2005  
Attorney Docket No. 17480P029

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 27, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on December 28, 2008. See MPEP 1215.04. It should be noted that the reply received on March 23, 2009 along with a three month extension of time was not a proper reply to a Notice of Appeal.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of \$405, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay. Accordingly the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Technology Center AU 2178 for appropriate action in the normal course of business for processing of the Appeal Brief received July 16, 2009.



Carl Friedman  
Petitions Examiner  
Office of Petitions